No. 90-528

Supreme Court, U.S.
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In the Supreme Court
OF THE
United States

OCTOBER TERM, 1990

VENTILATOREN STORK HENGELO B.V.,
VERENIGDE MACHINEFABRIEKEN STORK N.V.,
Petitioners,

VS.

FORSIKRINGSAKTIESELSKABET HAFNIA,
aka HAFNIA,
Respondent,

Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI AND REQUEST FOR SANCTIONS

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I.

QUESTIONS PRESENTED FOR REVIEW

Respondent asserts that only the following questions are presented for review:

(1) Whether a remand order for lack of federal court subject matter jurisdiction is reviewable on appeal or otherwise under 28 U.S.C. § 1447(d);

(2) Whether the United States Court of Appeals for the Ninth Circuit abused its discretion in awarding sanctions against Petitioners under Rule 38 of the *Federal Rules of Appellate Procedure* where Petitioner's appeal was frivolous and wholly without merit; and

(3) Whether additional sanctions should be awarded against the Petitioners under Supreme Court Rule 42.2 and 28 U.S.C. § 1912.

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II.

JURISDICTIONAL STATEMENT

Contrary to Petitioners' claim, this Court lacks jurisdiction. 28 U.S.C. § 1447(d) specifically provides: "An order remanding a case to the State Court from which it was removed is not reviewable on appeal or otherwise. . . ."

Additionally, jurisdiction under 28 U.S.C. § 1254(1) is lacking, because the case is not properly one "in the Court of Appeals" inasmuch as the Ninth Circuit Court of Appeals dismissed Petitioners' appeal for lack of appellate court jurisdiction. *See Good Shot v. United States*, 179

U.S. 87, 21 S. Ct. 33, 45 L.Ed. 101 (1900). Petitioners should not be allowed to claim Supreme Court jurisdiction where both the District Court and Ninth Circuit concluded that they lacked jurisdiction.

III.

STATUTORY PROVISIONS INVOLVED

In addition to the statutes cited by Petitioners, Respondnet HAFNIA refers this Court to:

A. Supreme Court Rule 42.2 (formerly Rule 49.2) which states:

> .2. When a petition for a writ of certiorari, an appeal, or application for other relief is frivolous, the court may award the respondent or appellee just damages and single or double costs. Damages or costs may be awarded against the petitioner, appellant or applicant, or against the party's attorney or against both.

B. 28 U.S.C. § 1912, titled "Damages and costs on affirmance" which states:

> Where a judgment is affirmed by the Supreme Court or a court of appeals, the court, in its discretion, may adjudge to the prevailing party just damages for his delay, and single or double costs.

IV.

STATEMENT OF THE CASE

A. FACTUAL BACKGROUND.

Petitioner, VENTILATOREN STORK HENGELO B.V. is a wholly-owned subsidiary of Petitioner VER-

ENIGDE MACHINEFABRIEKEN STORK N.V. (hereinafter collectively referred to as "STORK".) Both are Dutch corporations. STORK designed, manufactured and sold windmill blades to Nordtank A/S, a Danish windmill manufacturer. STORK contends that the supply contracts between these companies (the "Stork-Nordtank contracts") contained an arbitration agreement.[1]

Nordtank sold windmills using STORK blades to the Cannon Capitol Group for use in its California windparks. The sales contract between these parties (the "Nordtank-Cannon contract") did not assign or otherwise obligate Cannon to any of the terms of the Stork-Nordtank contracts nor did it identify Cannon as an intended third-party beneficiary to the contracts. Nordtank and Cannon jointly obtained warranty insurance for the windmills from Respondent FORSIKRINGSAKTIESELSKABET HAFNIA, aka HAFNIA.

After the installation of the windmills, Cannon experienced difficulties with the blades manufactured by STORK. Cannon sought repair or replacement by STORK of the defective blades. STORK responded that it had no contractual obligations to Cannon, because Cannon was not a party to the Stork-Nordtank contracts.

Cannon then made a claim on its warranty insurance with HAFNIA. HAFNIA became subrogated to the rights of Cannon and was given a written assignment by Cannon

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[1]The only evidence produced by Stork to support this is a letter dated April 15, 1986 from Stork's managing director to Nordtank. The signature spaces provided on that letter for Nordtank's acceptance and approval of the arbitration agreement are blank. Consequently, the question remains whether Nordtank agreed in writing to arbitration with Stork as is required by Article II ¶¶ 1 and 2 of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

of all claims it had against STORK for the defective windmill blades.

HAFNIA sued STORK in the California state court asserting four separate causes of action. Under California law, none of the four causes of action requires privity by Cannon in the Stork-Nordtank contracts or relies upon the Stork-Nordtank contracts.

As a result of STORK's legal maneuvering, this lawsuit has now been pending for over two years, focusing exclusively on the issue of federal court subject matter jurisdiction rather than the merits.

B. PROCEDURAL BACKGROUND.

1. District Court.

STORK removed this case from California state court to federal court based on 9 U.S.C. § 205 which provides federal court subject matter jurisdiction over disputes falling within the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. STORK relied exclusively on the alleged arbitration agreement in the Stork-Nordtank contracts to which Cannon/Hafnia was not a party. STORK then filed two motions to dismiss and a motion to compel arbitration pursuant to 9 U.S.C. § 206.

HAFNIA responded with a Motion to Remand for Lack of Federal Subject Matter Jurisdiction pursuant to 28 U.S.C. § 1447(c). Contrary to STORK's representations, only HAFNIA's motion to remand was ever heard and decided by the District Court.[2] It is clear from the District Court's opinion that STORK did not meet its

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[2]Stork repeatedly misrepresented to the Ninth Circuit that the District Court heard and decided its Motion to Compel Arbitration before it decided to remand the case. The Ninth Circuit found that the facts did not support this "strained assertion" on Stork's part.

burden of establishing subject matter jurisdiction by proving that the dispute related to a written arbitration agreement between the parties to the litigation. Consequently, the District Court granted the motion and remanded the case.

2. Court of Appeals.

STORK appealed the District Court's remand order to the Ninth Circuit Court of Appeals. HAFNIA's counsel contacted STORK's counsel to point out that the remand order could not be reviewed on appeal under 28 U.S.C. § 1447(d) and requested that the appeal be voluntarily dismissed. STORK refused to withdraw its appeal.

STORK attempted to have its appeal consolidated with another appeal.[3] HAFNIA opposed consolidation because of the substantial differences between the cases and the issues on appeal.[4] STORK's Motion to Consolidate the Appeals was denied.

To avoid further delay and unnecessary expense, HAFNIA filed a Motion to Dismiss the Appeal and For Award of Sanctions based on a lack of appellate court jurisdiction under 28 U.S.C. § 1447(d). The Motions Panel of the Ninth Circuit did not decide the motion and, instead, referred it to the panel hearing the appeal on its merits. This panel granted HAFNIA's motion to dismiss

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See Memorandum, United States Court of Appeals for the Ninth Circuit, filed April 30, 1990, in Petitioners' Appendix at p. 7a.

[3]*Difwind Farms Ltd. VIII, et. al. v. Ventilatoren Stork Hengelo B.V.*, United States District Court for the Central District of California, Case No. CV 88-5038 MRP, *appeal dismissed*, United States Court of Appeals for the Ninth Circuit, No. 89-55145, June 14, 1989.

[4]The *Difwind v. Stork* case was originally filed in federal court based on diversity jurisdiction. Consequently, subject matter jurisdiction was never an issue as it was in this case.

the appeal. In addition, this panel concluded that STORK's appeal was frivolous and "wholly without merit", and awarded HAFNIA its costs and attorney's fees in opposing the appeal.

STORK filed a Petition for Rehearing, suggesting a hearing *en banc*. This petition was denied.

By Order dated October 9, 1990, the Ninth Circuit fixed the sanctions award at $28,478.75 based on HAFNIA's unopposed application.

V.

REASONS WHY THE PETITION SHOULD BE DENIED

A. SUMMARY OF ARGUMENT.

STORK characterizes the case as one involving arbitration. It is, instead, a case involving the appealability of a remand order based on lack of subject matter jurisdiction. When the issue is framed properly, it is apparent that: (1) the Ninth Circuit's dismissal of STORK's appeal was a matter of black letter law; (2) this case does not fall within any exception to the black letter law; (3) Petitioner's arguments on arbitration are not relevant; and (4) the Ninth Circuit's award of sanctions under F.R.A.P. 38 was proper and reasonable.

HAFNIA also requests that this Court consider an additional award of sanctions against petitioner STORK under Supreme Court Rule 42.2 and 28 U.S.C. § 1912 under the circumstances of this case.

B. THE NINTH CIRCUIT'S RULING IS A MATTER OF BLACK LETTER LAW.

The issue raised by Petitioner STORK is nothing new, novel or controversial. Instead, it is a matter of black letter law set out by statute and case law.

28 U.S.C. § 1447(c) provides:

> (c) If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.

When a motion for remand is brought pursuant to this statute, the burden of proving the existence of subject matter jurisdiction is on the party claiming that jurisdiction. *Jones v. General Tire,* 541 F.2d 660 (7th Cir. 1976); *Nesbitt v. Blazer Financial,* 550 F. Supp. 819 (N.D. Cal. 1982).

Doubts as to the existence of federal court subject matter jurisdiction are resolved *against* such jurisdiction; statutes conferring jurisdiction are strictly construed *against* jurisdiction; and removal statutes are strictly construed *against* removal and in favor of remand. *Wilson v. Republic Iron and Steel Co.,* 257 U.S. 92, 97, 66 L.Ed. 144, 42 S. Ct. 35, 37 (1921); *Emrick v. Touche Ross and Co.,* 846 F.2d 1190, 1195 (9th Cir. 1988); *Sullivan v. First Affiliated Securities, Inc.,* 813 F.2d 1368, 1371 (9th Cir. 1987); *Heatherton v. Playboy Inc.,* 60 F.R.D. 372 (D.C. Cal. 1973).

In the case at hand, Respondent HAFNIA moved for remand citing 28 U.S.C. § 1447(c). The District court was not convinced that STORK had met its burden of estab-

lishing federal court subject matter jurisdiction and, therefore, remanded the case.

> "None of the parties have made any showing that any agreement was ever entered into by the parties to this action to submit the issues raised by the complaint to arbitration." *See* the District Court's Amended Memorandum Decision in Petitioner's Appendix at P. 12A-13A.[5]

When a case is remanded pursuant to 28 U.S.C. § 1447(c), that decision is not reviewable by appeal or by writ. 28 U.S.C. § 1447(d) specifically states:

> (d) An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise. . . .[6]

The language of 28 U.S.C. § 1447(d) is clear, precise and unambiguous. As this Court has stated:

> It is unquestioned in this case and conceded by petitioners that this section prohibits review of all remand orders issued pursuant to § 1447(c) whether erroneous or not and whether review is sought by appeal or by extraordinary writ. This has been the established rule under § 1447(d) and its predecessors stretching back to 1887. *Thermtron Products, Inc. v. Hermansdorfer*, 423 U.S. 336, 343, 46 L.Ed. 2d 542, 549, 96 S. Ct. 584, 589 (1976).

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[5]While the District Court did not specifically cite 28 U.S.C. § 1447(c) in its Memorandum Decision or Amended Memorandum Decision, this is not necessary to preclude appeal. *See Schmill v. Insurance Company of North America*, 845 F.2d 1546, 1549-50 (9th Cir. 1988); *Kunzi v. Pan American World Airways, Inc.*, 833 F.2d 1291, 1293 (9th Cir. 1987).

[6]28 U.S.C. § 1447(d) exempts civil rights cases brought under 28 U.S.C. § 1443. This exception is not applicable here.

This black letter law has been repeated many times by many courts. *Volvo Corporation of America v. Schwarzer*, 429 U.S. 1331, 1332-3, 50 L.Ed. 2d 273, 275, 97 S. Ct. 284 (1976); *Hansen v. Blue Cross of California*, 891 F.2d 1384, 1387-8 (9th Cir. 1989); *Schmitt v. Insurance Company of North America*, 845 F.2d 1546, 1549 (9th Cir. 1988); *Kunzi v. Pan American World Airways, Inc.*, 833 F.2d 1291, 1293 (9th Cir. 1987).

This black letter law was specifically cited to STORK by HAFNIA with a request that its appeal be voluntarily dismissed. This black letter law was cited by the Ninth Circuit in its decision dismissing STORK's appeal and awarding sanctions.

This black letter law, as it applies to this case, does not need to be addressed again by this Court.

C. THIS CASE DOES NOT FALL WITHIN ANY EXCEPTION TO THE BLACK LETTER LAW.

An exception to the black letter law discussed above has been recognized where remand is based on a decision of "substantive law apart from any jurisdictional decision." *Pelleport Investors v. Budco Quality Theatres*, 741 F.2d 273, 276 (9th Cir. 1984). *See also Thermtron Products v. Hermansdorfer*, 423 U.S. 336, 46 L.Ed. 2d 542, 96 S. Ct. 584 (1976); *Hansen v. Blue Cross of California*, 891 F.2d 1384, 1387-8 (9th Cir. 1989); *Schmitt v. Insurance Company of North America*, 845 F.2d 1546, 1550-1551 (1988); *Scott v. Machinist's Automotive Trades District Lodge No. 190 of Northern California*, 827 F.2d 589, 592 (9th Cir. 1987); *Kunzi v. Pan American World Airways, Inc.*, 833 F.2d 1291, 1293 (9th Cir. 1987); and *Clorox v. U.S. District Court for the Northern District of California*, 779 F.2d 517, 520 (9th Cir. 1985).

The case of *Pelleport Investors v. Budco* provides the best and clearest example of the distinction between a case remanded for lack of subject matter jurisdiction which is not appealable and a case remanded on other grounds which may be appealable.[7]

In *Pelleport*, the Ninth Circuit noted that there were two alternative theories upon which the District Court could have remanded the case: (1) diversity jurisdiction was lacking; or (2) by contract, the parties had agreed to litigate in a forum other than the U.S. District Court. The Ninth Circuit noted:

> Had the District Court based its remand order on the first theory, § 1447(d) would no doubt apply, because, even if clearly erroneous, a District Court's decision that it lacks subject matter jurisdiction to hear a case is not reviewable. *See Thermtron Products, Inc. v. Hermansdorfer*, 423 U.S. 336, 343, 96 S.Ct. 584, 589, 46 L.Ed. 2d 542 (1976). But the Court did not base its remand order on lack of subject matter jurisdiction. It relied instead upon the forum selection clause. The novel question before this Court, then, is whether a remand order based on the enforceability of such a clause is reviewable. We believe it is. *Pelleport v. Budco*, 741 F.2d at 276.

In the case at hand, the question of whether or not the case related to a written arbitration agreement between the parties and the question of subject matter jurisdiction were and are one and the same.

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[7]A remand order based on grounds other than a lack of subject matter jurisdiction is not automatically appealable. Depending upon the nature of the order, it may be reviewable on appeal, it may be reviewable only by extraordinary writ or may not be reviewable at all.

This is not a case in which the District Court had subject matter jurisdiction but chose not to exercise it because of other considerations such as a forum selection clause between the parties,[8] nor is this a case in which the court, through the exercise of its subject matter jurisdiction, destroyed that jurisdiction.[9] As a result, this case does not fit within the exception to the rule cited by STORK. Instead, it is the paradigm case for the application of 28 U.S.C. § 1447(d).

D. PETITIONERS' ARGUMENTS CONCERNING ARBITRATION ARE NOT RELEVANT.

As it did in its Ninth Circuit appeal, STORK attempts to have this Court look beyond the issues of subject matter jurisdiction and appellate jurisdiction to focus on its Motion to Compel Arbitration. However, this motion was never heard or decided by the District Court or Ninth Circuit and, therefore, is not properly before this Court. Nevertheless, HAFNIA feels compelled to briefly respond to some of the arguments raised in STORK's Petition.

1. 9 U.S.C. § 15 Does Not Apply.

STORK argues that the Ninth Circuit's dismissal of its appeal conflicts with 9 U.S.C. § 15. However, on its face that statute is limited to the appeal of "an order ... denying an application under § 206 of this Title to compel arbitration." In this case, the District Court neither heard nor decided STORK's Motion to Compel Arbitration

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[8] *See Thermtron Products, Inc. v. Hermansdorfer*, 423 U.S. 336, 46 L.Ed. 2d 542, 96 S. Ct. (1976); *Clorox v. U.S. District Court*, 779 F.2d 517 (9th Cir. 1985); *Pelleport Investors v. Budco Quality Theatres*, 741 F.2d 273 (9th Cir. 1984).

[9] *Waco v. United States Fidelity & Guaranty Company*, 239 U.S. 140, 55 S. Ct. 6, 79 L.Ed. 244 (1935).

under 9 U.S.C. § 206. Consequently, there is no order from which STORK may appeal.

2. 9 U.S.C. § 15 Does Not Conflict with 28 U.S.C. § 1447.

STORK asserts that 9 U.S.C. § 206 should take precedence over 28 U.S.C. § 1447 on the ground that it is more specific. However, this rule of statutory construction does not apply unless the statutes in question conflict. No conflict exists here.

9 U.S.C. § 15 allows for the appeal of an order denying a motion to compel arbitration and 28 U.S.C. § 1447(d) prohibits an appeal of an order remanding a case for lack of subject matter jurisdiction. In this case, the District Court issued an order remanding the case; it did not issue an order denying STORK's Motion to Compel Arbitration. The application of the statutes is, therefore, clear and not in conflict.[10]

3. The Lower Court's Rulings Do Not Conflict With the Public Policy Favoring Arbitration.

STORK insists that the District Court's and the Ninth Circuit's rulings are in conflict with the public policy favoring arbitration enunciated by Congress and by this Court. STORK ignores fundamental principles of arbitration law.

> Arbitration is a matter of contract and a party cannot be required to submit to arbitration a dispute which he has not agreed so to submit. *AT&T Technolo-*

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[10]STORK also implies that since 9 U.S.C. § 15 was just enacted on November 19, 1988, it should take precedence. STORK ignores the fact that 28 U.S.C. § 1447(c) was amended by the same Act on the same day.

gies v. Communications Workers, 476 U.S. 643, 648, 89 L.Ed. 2d 648, 655, 106 S. Ct. 1415 (1986).

> A mere assertion that there is a dispute that is arbitrable does not make one exist. *Rosenthal v. Emmanuelle Deetjen & Company*, 516 F.2d 325, 327 (2nd Cir. 1975).

STORK had the opportunity in opposing the remand motion to: (1) establish the existence of an arbitration agreement; and (2) establish that HAFNIA was contractually bound by it. STORK failed on both counts. As a result, the public policy favoring arbitration does not apply here.

E. THE NINTH CIRCUIT'S AWARD OF SANCTIONS WAS REASONABLE AND PROPER.

Under F.R.A.P. 38, the Ninth Circuit Court of Appeals had discretion to award sanctions against STORK if its appeal was frivolous. An appeal is deemed frivolous where "the result is obvious and the arguments of error are wholly without merit." *FDIC v. Van Lannen*, 769 F.2d 666, 667 (10th Cir. 1985); *Gattuso v. Pecorella*, 733 F.2d 709, 710 (9th Cir. 1984); *NLRB v. Catalina Yachts*, 679 F.2d 180, 182 (9th Cir. 1982).

The clarity and unambiguous nature of statutory law and prior case law can serve as evidence that an appeal contradicting that law is frivolous and that sanctions are appropriate. *Kelly v. International Brotherhood of Electrical Workers*, 803 F.2d 516, 519 (9th Cir. 1986).

Given that sanctions under F.R.A.P. 38 are a matter of discretion, an "abuse of discretion" standard should apply. *See Cooter & Gell v. Hartmarx Corp.*, 496 U.S. ____, 110 L.Ed. 2d 395, 110 S. Ct. 2447 (1990). Under such a standard, the award of sanctions by the Ninth Circuit

should be upheld for a number of reasons. First, the appeal was dismissed rather than being decided on its merits, evidencing the clear and unambiguous nature of the law. Second, the lack of appellate court jurisdiction was specifically made known to STORK at the outset of the appeal. Nevertheless, STORK persisted "needlessly requiring the parties and the court to incur time and effort." *See* Petitioner's Appendix at P. 2A. Third, the Ninth Circuit concluded that STORK's arguments on appeal were "strained", not supported by the facts and "wholly without merit." *See* Petitioner's Appendix at P. 7A. Fourth, the Ninth Circuit Panel's Decision was unanimous. Fifth, with the exception of an amendment to and a deletion in the wording of the sanctions portion of the opinion, that award was affirmed and upheld following STORK's request for a rehearing and suggestion for a rehearing *en banc*. Sixth, while STORK argues that only one of its arguments was deemed meritless, that one argument went to the very heart of the entire appeal: whether the Appellate Court had jurisdiction or not.

STORK argues that the award of sanctions under F.R.A.P. Rule 38 will discourage access to the appellate process. Indeed, the intent of this rule as well as 28 U.S.C. § 1912, this court's Rule 42.2 (formerly 49.2) and F.R.C.P. Rule 11 is to discourage meritless and frivolous pleadings which delay the resolution of cases on their merits while costing opposing parties and the courts considerable time and money. They do not discourage nor do they apply to cases with some merit even if those cases are ultimately lost.

Unfortunately, the clear language of 28 U.S.C. § 1447(d) and this court's prior decisions on point did not discourage STORK from filing its appeal; the threat of Rule 38 sanctions did not discourage STORK from

filing its frivolous appeal; and the current threat of additional sanctions under Supreme Court Rule 42.2 has not discouraged STORK from filing this frivolous Petition for Writ of Certiorari. Unfortunately, STORK has had too much access to the courts.

VI.

REASONS WHY ADDITIONAL SANCTIONS SHOULD BE AWARDED UNDER SUPREME COURT RULE 42.2 AND 28 U.S.C. § 1912

> There is no doubt that in order to prevent delay in the trial of remanded cases by protracted litigation of jurisdictional issues, *United States v. Rice,* 327 U.S., at 751, 90 L.Ed. 982, 66 S. Ct. 835, Congress immunized from all forms of appellate review any remand order issued on the grounds specified in § 1447(c), whether or not that order might be deemed erroneous by an appellate court. *Thermtron Products, Inc. v. Hermansdorfer,* 423 U.S. 336, 351, 46 L.Ed. 2d 542, 554, 96 S. Ct. 584 (1976).

By filing its appeal with the Ninth Circuit and by seeking a Petition for Writ of Certiorari from this Court, STORK has violated the clear language, purpose and intent of 28 U.S.C. § 1447(d). STORK has delayed the litigation of this case on its merits for over two years by arguing and appealing the question of subject matter juridiction. Even if its Petition to this Court is denied, STORK has accomplished that which 28 U.S.C. § 1447(d) was intended to prevent.

Unless this Court awards additional sanctions under Rule 42.2 and/or 28 U.S.C. § 1912, Respondent HAFNIA will return to the California state court where this case

was initiated with nothing to show but legal bills and a two year delay.

Many years ago, this Court recognized the importance of using sanctions as a tool to discourage frivolous appeals.

> Our experience teaches that the only way to discourage frivolous appeals and writs of error is by the use of our power to award damages, and we think this a proper case in which to say that hereafter, more attention will be given to that subject, and the rule enforced both according to its letter and spirit. Parties should not be subjected to the delay of proceedings for review in this court without reasonable cause, and our power to make compensation to some extent for the loss occasioned by an unwarranted delay ought not to be overlooked. *Whitney v. Cook*, 99 U.S. 607, 25 L.Ed. 446 (1878).

This quote rings true in this case, and HAFNIA submits that this Court should award against STORK the attorney's fees and costs incurred by HAFNIA in opposing this Petition for Writ of Certiorari.

VIII.

CONCLUSION

STORK's Petition for Writ of Certiorari should be seen for what it really is: an improper attempt to seek review of a remand order in violation of 28 U.S.C. § 1447(d). To deter similar conduct by STORK and its counsel in the future and to compensate HAFNIA for the delay and expenses the Appeal and this Petition have caused, HAFNIA requests that this Court affirm the Ninth Circuit Court of Appeal's award of sanctions under F.R.A.P. Rule 38 and that it award additional sanctions under Supreme Court Rule 42.2 and 28 U.S.C. § 1912.

Dated: October 18, 1990

Respectfully submitted,

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APPENDIX A

FILED OCTOBER 9, 1990
CLERK, U.S. COURT OF APPEALS

No. 88-15708

United States Court of Appeals

For the Ninth Circuit

FORSIKRINGSAKTIESELSKABET HAFNIA,
Plaintiff-Appellee,

vs.

VENTILATOREN STORK HENGELO B.V, ET AL.,
Defendants-Appellants.

DC #CV-88-0475-EDP
Eastern California (Sacramento)

ORDER

Appellee's unopposed application for attorneys' fees is granted. Fees are awarded in the amount of $28,478.75.

For the Court:

Chris Goelz
Motions Attorney/Deputy Clerk